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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/350,983	07/09/1999	MARC PORAT	040180-0002	9089

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EXAMINER

PATEL, JAGDISH

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/350,983

Applicant(s)

PORAT ET AL.

Examiner

JAGDISH PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/15/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-70,74-82,101,106-111,113 and 114 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 2-70,74-82,101,106-111,113 and 114 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/15/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. This communication is in response to amendment filed 11/15/2004.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 11/15/2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Amendment/Remarks

3. Claims 2-70, 74-82, 101, 106-111 and new claims 113 and 114 are currently pending.

4. Upon further consideration of the prior art made of record in the information disclosure filed by the applicant, the pending claims have been rejected under 35 USC 103(a) as discussed in the following sections.

Claim Rejections - 35 USC § 103

5. Claims 2-15, 18-37, 47-56, 62-68, 74-77, 101, 106-114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlton-Foss (US 6,647,373) and further in view of Guttman (Merchant Differentiation through Interactive Negotiation in Agent-Mediated Electronic Commerce) (Guttman).

6. Regarding claim 2: Carlton-Foss teaches step d) inputting into a computer a buyer's request for purchase;
(col. 3 L 20-23 "posting means for posting information across the network, the request being descriptive of a request" and col. 7 L 34-51 "request data received at a first input/output interface..")

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e) communicating the request for an offer to at least two of the sellers;

(col. 3 L 23-27, "bidding means available to bidders ..in response to the request)

f) receiving offers, including terms of sale in response to the request, from at least two of the sellers;

(col. 3 L 30-31 ..receiving means for receiving the plurality of bids sent ..by plurality of proposers)

g) automatically generating rating information about seller offers based on a plurality of predetermined criteria, wherein said plurality of criteria include at least one criterion other than price;

(col. 3 L 34-37, "evaluation means for ranking bids received in accordance with financial and an unspecified number of other qualitative and quantitative dimensions", col. 8 L 1-14, see "function of bid item evaluator" and "bid ranking manager 134", see col. 10 description of Fig. 11, other citation of automatic rating of offer is col. 11 L 55+ which refers to an algorithm for automatic evaluation (rating of the offers)), for further details about rating of offers also refer to Fig. 12b)

h) communicating information regarding at least some of the seller offers to at least one other seller;

(col. 6 L 10-26, "authorized bidders are able to view selected parts of the bids and responds with revised proposals)

i) receiving an adjusted offer from at least one of the sellers during a specified auction period;

(see analysis step h) noting that a specified auction period is inherent to any auction)

j) communicating information regarding at least some of the seller offers and at least part of the rating information to the buyer (col. 6 L 42-50, ..displayed on requestor's worksheet.. and col. 12 L 52-58, requestor..review the results of the automated evaluations).

Guttman teaches:

inputting...a buyer's request for information about products or services...;

Finding information in response to the request; (

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Communicating at least part of the information found to the buyer.

(...(Guttman, refer to description of "agent systems", chapter 2: Related Work, pp. 33-36, also refer to Chapter 3 pp. 54-55 under heading "comprehensive online shopping");

It would have been obvious to one of ordinary skill in the art at the time of invention to combine Guttman to Carlton-Foss because buyer would be able to identify products having complex features according his preferences which would aid in his buying decisions. As explicitly disclosed in Guttman this combination would afford buyer the opportunity to cooperatively search the space of product offerings across their full range of value with the purpose of maximizing the purchase experience.

Claims 3 and 4: wherein said request for an offer is inputted using an electronic template. (see col. 6, L 42-45, "requestor worksheet").

Claims 5: said information communicated to the buyer includes ..with suggestion module.

(see Guttman, chapter 2, PersonaLogic).

Claims 6 : Carlton-Foss fails to teach, however, official notice is taken that performing steps of product information retrieval and subsequent purchase of products using a single computer (without the buyer actively initiating a transfer to a

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different computer) in auction environment is old and well known. It would have been obvious to one of ordinary skill in the art at the time of the invention to have all carried out per claim in order to simplify the purchase experience.

Claims 7-11: The cited prior art do not expressly show that the computer operated by a service provider unrelated to either buyer or the sellers. The cited prior art further do not expressly show additional features associated with the service provider.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The method steps a)-j) would be performed the same regardless of the (non-functional) data.

Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983), *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to Have the computer operated by the service provider with associated features because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Claim 12-15: inputting the request using graphical user interface with other related features recited are inherent to online auction wherein the auction is implemented via a web site of the provider as discussed in *Carlton-Foss and Guttman*.

Claims 18-29: a plurality of criteria concerning buyer preferences (refer to Figure 14, and discussion of criteria (dimensions) in col. 10-13).

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Claims 30-32, 77: wherein said request includes asking sellers to apply a suggestion module to said request (see relevant discussion of suggestion module in claim 5 analysis).

Claim 33: Carlton-Foss fails to teach, however, official notice is taken that maintaining anonymity of the buyer or seller is old and well known in electronic commerce

It would have been obvious to one of ordinary skill in the art at the time of the invention to have the have the buyer remain anonymous as a personal preference and incorporate this feature as a design choice.

Claim 34: communicating of the request for an offer includes searching a database ..(see Carlton-Foss Figure 5 database 119)

Claims 35-36: Carlton-Foss and Guttman to explicitly teach However, official notice is taken that searching a database and Pre-compilation of database and compilation on the fly are old and well methods of database generation and updates and obvious to one of ordinary skill the art.

Claims 37: Carlton-Foss and Guttman to explicitly teach however, official notice is taken programming a computer to periodically sent request for an offer (such as a bid in auction environment) and well known methods. It would have been obvious

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to one of ordinary skill in the art at the time of the invention to implement this feature for the convenience of the buyer.

Claims 47-50: cited references teach various forms of rating information. (see Carlton-Foss numerical percentage "goodness of match" as calculated by the "Bid Ranking Manager"). However, ranking of merchants, vendors and service providers in many different forms is old and well known and within the skill of one of ordinary skill in the art.

Claim 51-52: seller information includes identity of the offerer (see Carlton-Foss, col. 6 L 41-55).

Claim 53-54 and 109-111: communicating of seller offers and rating information takes place during auction period (see background of see Carlton-Foss, alternatively other variations of this step such as "before" and "after" the auction period are obvious to those skilled in the art as such knowledge is widely available in marketing art.)

Claims 55-56: the recited claims pertain to selling offering purchase history information of consumer for marketing.

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement these steps for marketing and maximizing revenue from the operation of the auction.

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Claim 62: time remaining in the specified auction period (Carlton-Foss, Fig. 4a-b).

Claims 63-68: buyer's auction includes specified auction parameters (Carlton-Foss, Fig. 4a-b and 12a-b).

Claim 106-108: the step of automatically generating rating information occurs before the step of receiving an adjusted offer (inherent to Carlton-Foss, because the rating is generated before adjusted offers are received). (see background of see Carlton-Foss, alternatively other variations of this step such as "before" and "after" the auction period are obvious to those skilled in the art as such knowledge is widely available in marketing art.)

Claim 74. As per claim 2 analysis Carlton-Foss teaches a fully automated method of facilitating an electronic auction between a prospective buyer and a plurality of prospective sellers with near perfect information, comprising the steps of a)-f). (refer to claim 2 analysis, steps d)-j)).

Carlton-Foss fails to teach, however, Guttman, in the same field of endeavor teaches that a software process initiates the communicating of seller offers (as per step g) of the present claim) and rating information to the buyer when a buyer-specified event occurs. (see Guttman, discussion of online agent Kasbah (p. 44), p. 59-62, "Tête-a-Tête Shopping Experience", in particular, p. 60 para "From the shopper's perspective..product offering that base satisfy the selected profile's default preferences as shown in Fig. 13)).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the feature of the software process (at least bid ranking manager, 134, requester Worksheet generator 129 of Figure 5) initiate communicating of seller offers and rating information to the buyer when a buyer specified event occur because this evaluation would help customize the most appropriate product for the buyer based upon the buyer's specified requirements.

Claim 75. The buyer specified event is the receipt of the seller offer with a rating above a buyer-specified rating level (see Figures 13 and 14 and description on pp. 59-62 of Guttman, for motivation refer to claim 74).

Claim 76: ..side by side comparisons of a plurality of seller offers (see Fig. 15 of Carlton-Foss and Fig. 15 of Guttman).

All limitations of method claim 113 have been analyzed as per claim 2 analysis.

Claim 101: acceptance of the buyer ..of offers to ..sellers

(inherent to consummate the transaction in any auction such as one disclosed in the instant references)

7. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlton-Foss and Guttman as applied to claim 2 and further in view of Chen (US Pat. 65,991,737) (Chen).

Claims 16-17: Carlton-Foss and Guttman fail to teach, however, Chen, in the same field of endeavor, Chen teaches a method of electronic shopping wherein a purchase request is input using a voice user interface (inherently includes natural language input) (Chen Col. 4 L 61- col. 5 L 16).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of claim 1 as disclosed by Alaia in view of Boston Ed provide for input using a voice interface and further including natural language input per Chen reference because this would facilitate ordering of bidding in an interactive auction easier and faster than inputting via a typing the required inputs.

8. Claims 38-46, 69-70, 78-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlton-Foss and Guttman as applied to claim 2 and further in view of Alaia.

Claim 38-46 Carlton-Foss and Guttman to explicitly teach however, Alaia teaches communicating information about the buyer to at least one of the sellers (Alaia, col. 3 L 3-8, suppliers receive notices regarding upcoming auction as well as client software), ..in consideration to the buyer (Alaia, col. 3 L 3-8, suppliers participate in the buyer's auction).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to implement various features of the aforementioned claims per Alaia because it would provide valuable information to the seller for marketing and it would encourage the buyer to provide the information since he is compensated for it in different forms.

Claims 69-70: Carlton-Foss and Guttman do not explicitly teach, however, Alaia teaches the steps, adjusted offer expires after a time period specified by the offerer (Alaia schedule close, Fig. 7A, time period is 10:30 Hours), time specified by the offerer (time specified is 10:30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement these features of the aforementioned claims per Alaia in order to provide added flexibility and control to the offerer to restriction time limit on the goods and services offered at a specific price and having specific quantity.

Claims 78-82: Carlton-Foss and Guttman do not explicitly teach, however, Alaia teaches adding information about the auction to a database (Alaia, refer to Figures 6A-9B elements of database recited in dependent claims).

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement these features of the aforementioned claims per Alaia as a preference of design choice in order that the information (records of the auction activity) is properly maintained in the databases.

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Claim 114 corresponds to an apparatus claim which comprises Means for functions (or method steps) which have been analyzed per claim 2.

9. Claims 57-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlton-Foss and Guttman as applied to claim 2 and further in view of Mori et al.

Claims 57-61: Carlton-Foss and Guttman fail to teach and Mori recites that the adjusted offer is adjusted at least in part by a computer algorithm (see abstract, and Figure 1).

It would have been obvious to one of ordinary skill in the art at the time of invention to implement the computer algorithm per claims 57 including various features recited in dependent claims 58-61 because providing capability of computer algorithm for adjusting offers and using conventional rules and procedures by computer would make it unnecessary for the bidder to stay before the auction terminal and would allow more accurate and timely entry of auction information.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

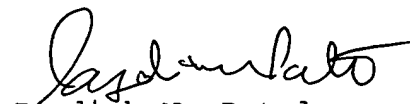
Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH

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PATEL whose telephone number is (703)308-7837. The examiner can normally be reached on 800AM-600PM M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703)308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jagdish N. Patel

(Primary Examiner, AU 3624)

4/5/05